

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,)	
)	
Plaintiff-Appellee,)	
)	
vs.)	CASE NO. 15-50472
)	
WILLIAM RICHARD BAILEY,)	
)	
Defendant-Appellant.)	
_____)	

On Appeal from the United States District Court
Southern District of California
Hon. Cathy Ann Bencivengo, District Judge

**DECLARATION OF DAVID M. MICHAEL IN SUPPORT OF
APPELLANT'S MEMORANDUM RE NOVEMBER 4, 2015 ORDER
TO SHOW CAUSE WHY APPEAL SHOULD NOT BE DISMISSED**

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WILLIAM RICHARD BAILEY**

DECLARATION OF DAVID M. MICHAEL

I, David Michael, declare as follows:

1. I am an attorney at law, duly licensed to practice before this Court and other federal and state courts throughout the United States.
2. I represent Defendant William Richard Bailey in the above entitled matter and I am familiar with all the proceedings in the case, as well as all the documentary evidence that has been addressed or otherwise dealt with before the District Court, below, and between the parties.
3. I am also familiar with all the allegations and documentary and testimonial evidence that has been addressed by the parties in support of and in opposition to Defendant's motion to dismiss the Indictment.
4. I was present at the hearing held by the Court below, in arguing Dr. Bailey's Motion to Dismiss.
5. The District Court opined that it did not have jurisdiction to hear the Motion to Dismiss.
6. Instead, the Court suggested that Dr. Bailey seek whatever remedy might be available to him via a Rule 60(b) motion to the tax court that rendered its own initial decision.
7. The Court did not address Dr. Bailey's assertion of his right to insist that a jury, not the IRS, determine the taxes he was alleged to have evaded or

attempted to evade.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct, to the best of my knowledge, recollection, and belief. Executed on November 25, 2015.

s/David M. Michael
DAVID M. MICHAEL

Attorney for Defendant
WILLIAM RICHARD BAILEY

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that, on November 25, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. I certify that all participants in the case are, or have applied to be, registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/David M. Michael
DAVID M. MICHAEL

Attorney for Defendant
WILLIAM RICHARD BAILEY